

SENATE BILL No. 386

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-17-5.

Synopsis: Grandparent visitation. Allows a parent of a child to petition to establish visitation between the child and the child's grandparent. Establishes factors for the court to consider in determining whether to grant grandparent visitation. Provides that a court may grant grandparent visitation rights over the objection of the child's parent only if the court finds by clear and convincing evidence that denial of grandparent visitation will be detrimental to the child's health, safety, or welfare. Prohibits a grandparent with visitation rights from taking the child outside the state without the consent of the child's custodial parent.

Effective: July 1, 1999.

Bowser

January 11, 1999, read first time and referred to Committee on Judiciary.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 386

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-17-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) **This chapter**
3 **applies** ~~A child's grandparent may seek visitation rights~~ if:

- 4 (1) ~~the~~ **a** child's parent is deceased;
5 (2) the marriage of ~~the~~ **a** child's parents has been dissolved in
6 Indiana; or
7 (3) subject to subsection ~~(b)~~, (c), ~~the~~ **a** child was born out of
8 wedlock.

9 **(b) The following individuals may file a petition to establish**
10 **grandparent visitation:**

- 11 **(1) A child's grandparent.**
12 **(2) A child's parent.**

13 ~~(b)~~ (c) A court may not grant visitation rights to a paternal
14 grandparent of a child who is born out of wedlock under subsection
15 (a)(3) if the child's father has not established paternity in relation to the
16 child.

17 SECTION 2. IC 31-17-5-2 IS AMENDED TO READ AS

1999

IN 386—LS 7244/DI 98+



1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) **Subject to**
 2 **subsection (c)**, the court may grant visitation rights if the court
 3 determines that visitation rights are in the best interests of the child.

4 (b) In determining the best interests of the child under this section,
 5 the court may consider ~~whether a grandparent has had or has attempted~~
 6 ~~to have meaningful contact with the child:~~ **the following:**

7 (1) **The willingness of the grandparent to cooperate with the**
 8 **child's parent regarding the welfare of the child.**

9 (2) **The interaction between the grandparent and the child's**
 10 **parent.**

11 (3) **The interaction between the grandparent and the child.**

12 (4) **The primacy of the parent-child relationship.**

13 (c) **The court may not grant visitation rights over the objection**
 14 **of the child's parent unless the court finds, by clear and convincing**
 15 **evidence, that denial of grandparent visitation is detrimental to the**
 16 **child's health, safety, or welfare.**

17 SECTION 3. IC 31-17-5-3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A proceeding for
 19 grandparent's visitation must be commenced by the filing of a petition
 20 entitled, "In Re the visitation of _____". The petition must:

21 (1) be filed by a ~~grandparent~~ **an individual entitled to receive**
 22 **visitation rights under described in section 1(b) of this chapter;**

23 (2) be verified; and

24 (3) set forth the following:

25 (A) The names and relationship of:

26 (i) the petitioning ~~grandparent or grandparents;~~ **party or**
 27 **parties;**

28 (ii) each child with whom visitation is sought; ~~and~~

29 (iii) the custodial parent or guardian of each child; ~~and~~

30 (iv) **the name of the grandparent or grandparents with**
 31 **whom visitation with the child is sought if the petitioning**
 32 **party is the child's parent.**

33 (B) The present address of each person named in clause (A).

34 (C) The date of birth of each child with whom visitation is
 35 sought.

36 (D) The status under section 1 of this chapter upon which the
 37 ~~grandparent~~ **petitioning party** seeks visitation.

38 (E) The relief sought.

39 SECTION 4. IC 31-17-5-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. A ~~grandparent~~
 41 **petitioner** seeking **to establish grandparent** visitation ~~rights~~ shall file
 42 a petition requesting **the establishment of** reasonable visitation rights:



(1) in a circuit or superior court of the county in which the child resides in a case described in section 1(a)(1), 1(a)(3), or 10 of this chapter; or

(2) in the court having jurisdiction over the dissolution of the parents' marriage in a case described in section 1(a)(2) of this chapter.

SECTION 5. IC 31-17-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Whenever a petition is filed, a copy of the petition, together with a copy of a summons, shall be served upon:

(1) the custodial and noncustodial parent or guardian of each child with whom visitation is sought **if the petitioning party is a grandparent; or**

(2) **the grandparent with whom visitation is sought if the petitioning party is the child's parent;**

in the same manner as service of summons in civil actions generally.

SECTION 6. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, ~~the child's maternal or paternal grandparent~~ **an individual described in section 1(b) of this chapter** may ~~seek~~ **file a petition to establish grandparent visitation rights** if:

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under IC 31-17-3-12; and

(2) an Indiana court would have jurisdiction under IC 31-17-3-3 or IC 31-17-3-14 to grant **grandparent** visitation ~~rights to the grandparent~~ in a modification decree.

SECTION 7. IC 31-17-5-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. **If a court grants a petition for grandparent visitation under this chapter, a grandparent may not transport the child outside Indiana without the consent of the child's parent.**

